

**LOCAL RULES**  
**OF THE**  
**UNITED STATES BANKRUPTCY COURT**  
**FOR THE**  
**EASTERN DISTRICT OF LOUISIANA**

**EFFECTIVE**  
**APRIL 15, 1997**  
**Revised: April 19, 2000**

## **PREAMBLE**

The Bankruptcy Local Rules of the United States Bankruptcy Court for the Eastern District of Louisiana are the result of a cooperative effort of the District Court, the Bankruptcy Court, and members of the bar of the Eastern District of Louisiana.

At its March 1996 session, the Judicial Conference prescribed a uniform numbering system for bankruptcy local rules that is based on and tracks the relevant provisions of the Federal Rules of Bankruptcy Procedure. Accordingly, the Bankruptcy Local Rules have been renumbered according to their corresponding Federal Rules of Bankruptcy Procedure. The rules may be cited as "LBR \_\_\_\_."

The rules have been adopted by a majority vote of the judges of the District effective as of April 15, 1997.

**PART I - COMMENCEMENT OF CASE;  
PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF**

**RULE 1006-1 - FEES – INSTALLMENT PAYMENTS**

**1006-1(A) Advance Payment Required**

The Clerk of the Bankruptcy Court<sup>1</sup> shall not be required to file any paper or to render any service for which a fee is legally collectible unless the fee for the particular service is paid in advance or in installment payments authorized by court order.

**1006-1(B) Effect of Dismissal of Case**

If a case is dismissed voluntarily or for cause prior to payment of the entire filing fee, the debtor must pay, within ten days of the date of dismissal, whatever fee remains due at the time the case is dismissed.

**RULE 1007-2 - MAILING – LIST OR MATRIX**

**1007-2 Mailing Matrix**

The debtor or attorney filing a petition shall file a complete mailing matrix including the correct name and address of all known creditors and other parties in interest. The mailing matrix shall conform to the requirements established by the Clerk.

**RULE 1015-1 - JOINT ADMINISTRATION/CONSOLIDATION**

**1015-1 Joint Administration or Substantively Consolidated Cases**

(a) *Caption.* If the court orders joint administration or substantive consolidation of two or more cases, all pleadings in any of the cases shall state the names and numbers of all cases, with the name and docket number of the lowest numbered case listed first, unless otherwise ordered by the court. The caption of the lowest numbered case will serve as the identifying

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<sup>1</sup> All references to "the Clerk" in these rules shall mean the Clerk of the Bankruptcy Court, unless otherwise indicated.

caption during the pendency of the joint administration or consolidation and will continue to be used even if that particular case is closed.

**(b) *Consolidated Mailing Matrix.*** Upon joint administration or consolidation, the debtor (or, in an adversary proceeding, the plaintiff) shall, within ten days of the entry of such order, file with the Clerk a consolidated mailing matrix comprising a total mailing list of all interested parties in all the jointly administered and consolidated cases, without duplication. The mailing matrix shall comply with Rule 1007-2 of these Local Rules.

**PART II - OFFICERS AND ADMINISTRATION; NOTICES;  
MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS**

**RULE 2004-1 - DEPOSITIONS AND EXAMINATIONS**

**2004-1 Motions for Rule 2004 Examinations**

In addition to other rules applicable to all motions, a motion for an order for a Bankruptcy Rule 2004 examination must state that the movant has made reasonable efforts to arrange a mutually satisfactory date, time and place for the examination and that the entity or individual to be examined has agreed to the schedule or has refused to cooperate in establishing a schedule. A motion and order for a 2004 examination which does not make such a declaration will not be granted by the court.

**RULE 2007.1-1 - TRUSTEES AND EXAMINERS (CHAPTER 11)**

**2007.1-1 Election of Trustee in Chapter 11 Reorganization Case**

(a) *Request for an Election.* A request to convene a meeting of creditors for the purpose of electing a trustee in a Chapter 11 reorganization case shall be filed and transmitted to the United States trustee in accordance with Bankruptcy Rule 5005 within the time prescribed by Section 1104(b) of the Bankruptcy Code. Pending court approval of the person elected, a person appointed trustee under Section 1104(d) shall serve as trustee.

(b) *Manner of Election and Notice.* An election of a trustee under Section 1104(b) of the Code shall be conducted in the manner provided in Bankruptcy Rules 2003(b)(3) and 2006. Notice of the meeting of creditors convened under Section 1104(b) shall be given in the manner and within the time provided for notices under Bankruptcy Rule 2002(a). A proxy for the purpose of voting in the election may be solicited by a committee appointed under Section 1102 of the Code and by any other party entitled to solicit a proxy under Bankruptcy Rule 2006.

(c) *Application for Approval of Appointment and Resolution of Disputes.* If it is not necessary to resolve a dispute regarding the election of the trustee or if all disputes have been

resolved by the court, the United States trustee shall promptly appoint the person elected to be trustee and file an application for approval of the appointment of the elected person under Bankruptcy Rule 2007.1(b), except that the application does not have to contain names of parties in interest with whom the United States trustee has consulted. If it is necessary to resolve a dispute regarding the election, the United States trustee shall promptly file a report informing the court of the dispute. If no motion for the resolution of the dispute is filed within 10 days after the date of the creditors' meeting called under Section 1104(b), a person appointed by the United States trustee in accordance with Section 1104(d) of the Code and approved in accordance with Bankruptcy Rule 2007.1(b) shall serve as trustee.

#### **RULE 2014-1 - EMPLOYMENT OF PROFESSIONALS**

##### **2014-1 Form of Certificate of Disinterested Status**

An attorney, accountant or other professional person seeking appointment shall file an affidavit or certification with the Clerk which shall certify that the professional person to be employed (a) does not hold or represent an interest adverse to the estate and (b) is disinterested. An application from a trustee seeking to employ a professional person shall also certify that the professional person is not related to the trustee by affinity or consanguinity within the third degree as determined by the common law, and is not in a step or adoptive relationship within such degree.

#### **RULE 2015-2 - DEBTOR-IN-POSSESSION DUTIES**

##### **2015-2(A) Duties of Debtor in Chapter 11**

In addition to the duties and obligations established in the Bankruptcy Code and Rules, the duties of the debtor-in-possession shall be as set forth in a court order issued after the filing of the case.

##### **2015-2(B) Monthly Reports**

Monthly reports are to be filed with the court in a form acceptable to the United States trustee. The United States trustee shall be served with monthly reports at the same time they are filed with the court.

## **RULE 2016-1 - COMPENSATION OF PROFESSIONALS**

### **2016-1(A) Award of Attorneys' Fees**

(a) A request for attorneys' fees shall comply with LBR 9013-1 concerning motions.

In addition, it shall include the following:

1. a title stating whether this is the first, second, etc., or final application for compensation and on whose behalf it is filed;
2. the date the petition was filed;
3. the date the court authorized the employment of the applicants;
4. any retainer received by the applicant;
5. the date of and amount approved in any prior request;
6. a list, if any, of extraordinary circumstances involved in the case;
7. the period covered by the request;
8. the amount requested for legal services; and
9. the amount requested for expenses.

(b) Attached to the request shall be exhibits which include the following:

1. A listing of all the time for which compensation is requested, whether it be attorney, paralegal or law clerk time; the list should show the amount of time devoted to the case on each date and the legal services performed in that time.
2. A summary sheet which shows:
  - a. the amount of time spent by each attorney and the hourly rate;
  - b. the amount of time spent by law clerks and the hourly rate; and
  - c. the amount of time spent by paralegals and the hourly rate.

3. A summary sheet which itemizes all expenses, including copies, telephone charges, courier services, witness fees, postage, mileage, etc.

#### **2016-1(B) Award of Fees to Other Professionals**

A request for compensation for professionals other than attorneys shall comply with LBR 2016-1(A) to the extent possible.

### **RULE 2083-1 - CHAPTER 13 – GENERAL**

#### **2083-1 Chapter 13 – Additional Duties of Trustee and Debtor**

In addition to the duties prescribed by the Bankruptcy Code and the Bankruptcy Rules, the trustee and debtor shall perform the following duties, respectively:

(a) *Trustee's Duty.* The trustee shall submit to the debtor and the debtor's counsel the allowance of claim form as soon as practicable after the expiration of the last day for filing claims.

(b) *Debtor's Duties:*

1. The debtor shall provide all tax refunds to the trustee. If the debtor is in arrears in plan payments, the refund will be applied to the plan. If the plan payments are current, the trustee will return the refund to the debtor within 20 days of receipt; and
2. When a claim is bifurcated (partially secured and partially unsecured), the amount that is secured and the amount of the claim that is unsecured shall be listed separately in the schedules and plan.

### **RULE 2090-1 - ATTORNEYS – ADMISSION TO PRACTICE**

#### **2090-1(A) Roll of Attorneys**

The bar of the United States Bankruptcy Court for the Eastern District of Louisiana shall consist of every member in good standing of the bar of the United States District Court for the Eastern District of Louisiana, and all such members are entitled to practice before the Bankruptcy Court.

**2090-1(B) Eligibility**

Any member in good standing of the bar of the Supreme Court of Louisiana is eligible for admission to the bar of this court.

**2090-1(C) Procedure for Admission**

Each applicant for admission to the bar of this court shall file with the Clerk of the District Court a written petition signed by the applicant and endorsed by two members of the bar of this court listing the applicant's residence and office address, the applicant's general and legal education, the courts that have admitted the applicant to practice and stating that the applicant is qualified to practice before this court, is of good moral character and is not subject to any pending disbarment or professional discipline procedure in any other court. If the applicant has previously been subject to any disciplinary proceedings, full information about the proceedings, the charges and the result will be given.

The applicant may then be admitted in open court or in chambers before a district judge, and upon taking an oath to conduct himself/herself as an attorney or counselor of this court uprightly and according to law and to support the Constitution of the United States. The applicant shall then, under the direction of the Clerk of the District Court, sign the roll of attorneys and pay the fee required by law and any other fee required by the court. Unless such a motion for admission is made within six months of the filing of the petition, the Clerk of the District Court may destroy the petition and a new petition will be necessary before the applicant can be admitted.

**2090-1(D) Attorney Representation**

In all cases before this court, any party who does not appear in proper person must be represented by a member of the bar of this court, except as set forth below.

### **2090-1(E) Visiting Attorneys**

Any member in good standing of the bar of any court of the United States or of the highest court of any state and who is eligible to become a member of the bar of this court may, upon written motion of counsel of record who is a member of the bar of this court, by *ex parte* order, be permitted to appear and participate as co-counsel in a particular case.

The motion must have attached to it a certificate by the presiding judge or clerk of the highest court of the state, or court of the United States, where the applicant has been so admitted to practice showing that the applicant attorney has been so admitted in such court and that he is in good standing.

The applicant attorney shall state under oath whether any disciplinary proceedings or criminal charges have been instituted against him/her and, if so, shall disclose full information about the proceeding or charges and the results.

An attorney thus permitted to appear may participate in a particular action or proceeding in all respects, except that all documents requiring signature of counsel for a party may not be signed solely by such attorney, but must bear the signature also of local counsel with whom he is associated.

Local counsel shall be responsible to the court at all stages of the proceedings.

Designation of the visiting attorney as "Trial Attorney" pursuant to LBR 90 10-1 herein shall not relieve the local counsel of the responsibilities imposed by this rule.

### **2090-1(F) Waiver by Court Order of Requirements for Local Counsel**

In any case or proceeding, a counsel who is ineligible to become a member of the bar of this court under LBR 2090-1(B) may be authorized by court order to appear and act for any party without joinder of local co-counsel when it is shown that:

- (a) The party would suffer hardship by joinder of local counsel; and

- (b) The obligations and duties of local counsel in the particular litigation will be fulfilled.

#### **2090-1(G) Familiarity with and Compliance with Rules**

Everyone who appears in court in proper person and every attorney permitted to practice in this court shall be familiar with these rules. Willful failure to comply with any of them, or a false certificate of compliance, shall be cause for such disciplinary action as the court may see fit, after notice and hearing.

#### **2090-1(H) Familiarity with the Record**

Counsel for a party in any matter in this court shall be familiar with the substance of all documents filed in the case and, if the case is consolidated with one or more other cases, shall be familiar with the record of the consolidated cases. It is the responsibility of counsel representing a party joined in a case after its inception, whether by third party complaint or otherwise, or whose case is consolidated with one or more pending cases, to become familiar with court orders and with other documents previously filed in the record.

#### **2090-1(I) Additional Counsel**

Where counsel has appeared for any party, other counsel may appear for the same party only:

- (a) Upon motion of counsel of record for that party, or motion consented to by counsel of record; or
- (b) Upon motion, after counsel for the party has been permitted to withdraw or has died, or is incapacitated or cannot be found; or
- (c) Upon motion of a party after notice to counsel of record and an opportunity to be heard.

## **RULE 2090-2 - ATTORNEYS – DISCIPLINE AND DISBARMENT**

### **2090-2(A) Rules of Conduct**

This court hereby adopts and will apply the Rules of Professional Conduct of the Louisiana State Bar Association, as hereafter may be amended from time to time by the Louisiana Supreme Court, except as otherwise provided by a specific rule or general order of the court.

### **2090-2(B) Counsel's Failure to Appear**

Counsel's failure to appear, or appearing extremely late, for conferences with the court, or for the argument of motions, trial or any other proceeding, causes great inconvenience to the court, opposing counsel and, in some instances, to witnesses. Accordingly, it will be the court's policy to impose costs or sanctions as follows:

- (a) For failure to appear, or appearing extremely late, at any proceeding before any of the judges when the lawyer has been given timely notice of the conference or hearing, has failed in advance to seek a continuance and has no adequate excuse:
  - 1. If this is the first time counsel has been delinquent, or if the last time he failed to appear promptly was more than two years ago, he shall be ordered to pay a fee in a reasonable amount to each opposing counsel who has appeared.
  - 2. If this is the second time, and it is within two years of the first, the lawyer will be required to pay a fee in a reasonable amount to each opposing counsel who has appeared and will, in addition, be cited to show cause before a judge of this court why he should not be suspended from practice for a period of time or subjected to some other form of disciplinary action.
  - 3. The fee is not to be waived, nor is it to be returned or taken into account on settlement. It is not to be billed or charged to a client in any way.
- (b) For failure without adequate excuse to appear for a trial or a hearing for which witnesses have been summoned, or for unreasonable delay in appearing at such times, the lawyer will be required to show cause why he should not be subject to disciplinary action by the court.

## **2090-2(C) Practicing Before Admission or During Suspension**

Any person who exercises in any proceeding in this court any of the privileges of a member of the bar or who pretends to be entitled to do so before admission to the bar of this court, or during disbarment or suspension, is in contempt of court and subject to disciplinary action.

### **RULE 2091-1 - ATTORNEYS – WITHDRAWALS**

#### **2091-1 Continuing Representation, Withdrawals, Substitution of Counsel**

The original counsel of record shall be held to represent the party for whom he/she appears unless the court permits him/her to withdraw from the case. Counsel may obtain permission only upon joint motion to substitute counsel or upon a written motion served on opposing counsel, parties entitled to notice and the client before the court acts. If other counsel is not thereby substituted, the motion to withdraw shall contain the present address of the client and the client's telephone number if the client can be reached by telephone. The motion shall be served on the client, opposing counsel and parties entitled to notice by certified mail and shall contain a statement that the client has been notified of all deadlines and pending court appearances. If counsel is unable to so certify, counsel shall submit an affidavit stating why service has not been made.

**PART III - CLAIMS AND DISTRIBUTION TO  
CREDITORS AND EQUITY INTEREST HOLDERS; PLANS**

**RULE 3015-1 - CHAPTER 13 – PLAN**

**3015-1 Objections to Confirmation**

Objections to confirmation must be filed in writing and served on the debtor, the debtor's attorney and the trustee at least five days prior to the confirmation hearing.

**RULE 3015-2 - CHAPTER 13 – AMENDMENTS TO PLANS**

**3015-2 Modification of Plan**

**(a) *Prior to Confirmation.*** The attorney for the debtor shall send notice of any modification before the plan is confirmed to the trustee and to all creditors affected by the modification at least five days prior to the confirmation hearing. A copy of the notice, including a certificate of mailing, shall be filed with the modification.

**(b) *After Confirmation.*** The attorney for the party requesting plan modification must send notice of any request for plan modification after confirmation, accompanied by a summary of the proposed modification, to the trustee and to all creditors affected by the modification. The notice shall advise that any objections to the proposed modification shall be filed by written pleading with the court and the trustee within 20 days of mailing of the notice and that a hearing will be held on a specific date thereafter. A copy of the notice, including a certificate of mailing, shall be filed with the proposed modification. After hearing, the court may approve the plan as modified. All motions for modification of the Chapter 13 plan which do not adversely affect the creditors may be authorized by *ex parte* order.

## **RULE 3015-3 - CHAPTER 13 – PAYMENTS**

### **3015-3 Payments**

(a) *Post-Confirmation Payments.* Upon confirmation, payments shall be made to the trustee, except when the plan authorizes direct payment to a secured creditor. Failure to comply may result in dismissal.

(b) *Payment on Arrearages.* Unless the plan provides or the court orders otherwise, all pre-petition arrearages owed to secured creditors shall be paid over 36 months.

(c) *Form of Payment.* All payments to the trustee shall be in the form of a money order or certified check.

## **RULE 3016-1 - CHAPTER 11 – PLAN**

### **3016-1 Election to Be Considered a Small Business in a Chapter 11 Reorganization Case**

(a) *Statement.* In a Chapter 11 reorganization case, a debtor that is a small business may elect to be considered a small business by filing a written statement of election no later than 60 days after the date of the order for relief or by a later date as the court, for cause, may fix.

(b) *Approval of Disclosure Statement.*

1. *Conditional Approval.* If the debtor is a small business and has made a timely election to be considered a small business in a Chapter 11 case, the court may, on application of the plan proponent, conditionally approve a disclosure statement filed in accordance with Bankruptcy Rule 3016. On or before conditional approval of the disclosure statement, the court shall:
  - a. fix a time within which the holders of claims and interests may accept or reject the plan;
  - b. fix a time for filing objections to the disclosure statement;
  - c. fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and
  - d. fix a date for the hearing on confirmation.

2. *Application of Bankruptcy Rule 3017.* If the disclosure statement is conditionally approved, Bankruptcy Rules 3017(a), (b), (c) and (e) do not apply. Conditional approval of the disclosure statement is considered approval of the disclosure statement for the purpose of applying Bankruptcy Rule 3017(d).
3. *Objections and Hearings on Final Approval.* Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Bankruptcy Rule 2002 and may be combined with notice of the hearing on confirmation of the plan. Objections to the disclosure statement shall be filed, transmitted to the United States trustee and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code and any other entity designated by the court at any time before final approval of the disclosure statement or by an earlier date as the court may fix. If a timely objection to the disclosure statement is filed, the court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.

## **RULE 3018-2 - ACCEPTANCE/REJECTION OF PLANS**

### **3018-2 Certification of Acceptances and Rejections of Plans**

At least three days prior to the hearing on confirmation, the proponent of a plan shall certify in the form required by the Clerk the amount and number of allowed claims of each class accepting or rejecting the plan and the amount of allowed interests of each class accepting or rejecting the plan. The original certification shall be filed with the Clerk.

## **RULE 3022-1 - FINAL REPORT/DECREE (CHAPTER 11)**

### **3022-1 Motion for Final Decree**

The proponent of a plan shall file a motion for final decree accompanied by an accounting of plan payments within 30 days of the date the estate has been administered. On motion and order, the court may for good cause extend this date. Failure of the plan proponent to file a motion for final decree and the accompanying accounting of plan payments or a motion for extension of time may result in dismissal, conversion or other appropriate action as the court may order.

## **PART IV - THE DEBTOR: DUTIES AND BENEFITS**

### **RULE 4001-1 - AUTOMATIC STAY – RELIEF FROM**

#### **4001-1 Motions to Lift Stay**

In addition to other rules applicable to all motions, Section 362(d) motions asking for relief from the automatic stay shall contain the following:

- (a) A short and plain statement of the facts asserted as grounds for relief and the specific relief requested.
- (b) If the grounds are lack of equity of the debtor in a particular property –
  - 1. the amount of the debt, specifying the amount of principal, interest and any attorneys' fees or other costs claimed to be owed; and
  - 2. the value of the property and the manner in which the valuation was reached.

## **PART V - COURTS AND CLERKS**

### **RULE 5003-2 - COURT PAPERS – REMOVAL OF**

#### **5003-2 Withdrawal of Files**

Files in the office of the Clerk may be removed only:

- (a) for the use of the court;
- (b) pursuant to a subpoena from any federal or state court directing their production; or
- (c) with leave of court or permission of the Clerk first obtained.

### **RULE 5005-1 - FILING PAPERS – REQUIREMENTS**

#### **5005-1(A) Place of Filing**

All filings shall be made with the office of the Clerk of the Bankruptcy Court, 501 Magazine Street, Room 601, New Orleans, Louisiana, 70130. All references to "the Clerk" in these rules shall mean the Clerk of the Bankruptcy Court, unless otherwise indicated. Filings by facsimile or other electronic means are not permitted.

#### **5005-1(B) Form of Filing**

In addition to the requirements of the Bankruptcy Rules, the caption on filings shall also indicate the Section (as applicable and after allotment) of the bankruptcy judge to whom the case is assigned.

#### **5005-1(C) Judgments/Orders**

Judgments and/or orders must be on a separate sheet of paper and shall bear the caption of the case and, where applicable, the adversary proceeding.

## **RULE 5005-2 - FILING PAPERS – NUMBER OF COPIES**

### **5005-2 Number of Copies**

In a Chapter 7 or 13 case, an original and two copies of the petition, schedules and statements shall be filed. In a Chapter 11 or 12 case, an original and four copies of the petition, schedules and statements shall be filed. In an adversary proceeding, an original and one copy of the complaint shall be filed.

## **RULE 5005-3 - FILING PAPERS – SIZE OF PAPERS**

### **5005-3 Size of Papers**

Other than exhibits, all papers to be filed in this court shall be on 8-1/2 by 11 inch paper, plainly written or printed without defacing erasures or interlineations, and shall be double spaced, except that quotations and footnotes may be single spaced.

## **RULE 5070-1 - CALENDARS AND SCHEDULING**

### **5070-1 Cases to Be Tried on Date Assigned – Exceptions**

All cases shall be tried on the date set unless the trial is continued by order of the court.

## **RULE 5071-1 - CONTINUANCE**

### **5071-1(A) Absence of Material Witness**

Every motion for a continuance upon the ground of the absence of a material witness shall be accompanied by the affidavit of the party applying therefor, or the attorney, setting forth the efforts made to procure attendance and the facts expected to be proved by such witness. If the proposed testimony is set forth and it is admitted by the opposite party that the witness, if called, would testify as set forth in the affidavit, the court may, in its discretion, deny the motion.

### **5071-1(B) Motions to Continue Trials**

(a) ***Motion.*** Trial continuances must be sought by written motion and may be granted without a hearing. Because all trials in adversary proceedings are fixed only on an agreed date, motions to continue trials are discouraged and will only be granted when compelling reasons are shown.

(b) ***Contact with Opposing Parties or Parties in Interest.*** The motion shall state whether opposing counsel and parties entitled to notice do or do not have an objection or, if such opposing parties have not been contacted, the reasons why contact has not been made. Because the court may deny the motion or continue the matter to a different date than that proposed, the parties should not assume that a motion to continue will be granted.

## **RULE 5072-1 - COURTROOM DECORUM**

### **5072-1(A) Announcement of Representation**

At all trials or hearings and upon first addressing the court or taking any part in such trials or hearings, counsel shall announce his name and the name of the party or parties he represents.

### **5072-1(B) One Counsel to Examine Witness and Present Objections**

Only one counsel for each separate interest shall conduct the examination of any one witness or present argument or urge objections with respect to the testimony of that witness, except with leave of court.

### **5072-1(C) Offer and Marking of Exhibits**

Before referring to or using or offering in evidence any exhibit (whether book, paper, document, model, diagram or any other type of exhibit), counsel shall first ensure that it is marked for identification.

## **RULE 5073-1 - PHOTOGRAPHY, RECORDING DEVICES AND BROADCASTING**

### **5073-1(A) Cameras in the Courtroom**

The taking of photographs in the courtroom or its environs or radio or television broadcasting from the courtroom or its environs during the progress of or in connection with judicial proceedings, whether or not court is actually in session, is prohibited.

As used in these rules, the term "environs" means any place within any United States Courthouse wherein these rules apply and any public place immediately adjacent thereto.

### **5073-1(B) Cameras and Electronic Equipment**

Unless authorized by the court, no camera, recording equipment or other type of electrical or electronic device shall be brought into the premises. No person shall introduce or attempt to introduce any type of camera, recording equipment or other type of electrical or electronic device into the premises without court permission.

## **RULE 5096-1 - BUILDING SECURITY**

### **5096-1(A) Reasons for Building Security**

The purpose of these rules is to minimize interference with and disruptions of the court's business, to preserve decorum in conducting the court's business and to provide effective security in the buildings wherein proceedings governed by these rules are held. These buildings are hereinafter collectively referred to as "the premises."

### **5096-1(B) Security Personnel**

The term "security personnel" means the United States Marshal or deputy marshal or a deputized court security officer.

### **5096-1(C) Carrying of Parcels, Bags and Other Objects**

Security personnel shall inspect all objects carried by persons entering the premises. No one shall enter or remain in the premises without submitting to such an inspection.

**5096-1(D) Search of Persons**

Security personnel may search the person of anyone entering the premises or any space in it. Anyone who refuses to permit such a search shall be denied entry.

**5096-1(E) Unseemly Conduct**

No person shall:

- (a) Loiter, sleep or conduct himself in an unseemly or disorderly manner in the premises;
- (b) Interfere with or disturb the conduct of the court's business in any manner;
- (c) Eat or drink in the halls of the premises or in the courtrooms; or
- (d) Block any entrance to or exit from the premises or interfere in any person's entry into or exit from the premises.

**5096-1(F) Entering and Leaving**

All persons shall enter and leave courtrooms only through such doorways and at such times as shall be designated by the security personnel.

**5096-1(G) Spectators**

Spectators shall enter or depart courtrooms only at such times as the presiding judge may direct. No spectator shall enter or remain in any courtroom unless spectator seating is available. Spectators shall sit in that portion of the courtroom designated by the United States Marshal. Spectators excluded because of lack of seating and spectators leaving the courtroom while court is in session or at any recess shall not loiter or remain in the area adjacent to the courtroom.

**5096-1(H) Weapons**

No person shall be admitted to or allowed to remain in the premises with any object that might be employed as a weapon unless he has been authorized in writing by a district judge or magistrate judge to do so, or unless he is a federal law enforcement agent, a United States

Marshal, a Federal Protective Service Police Officer, a publicly employed law enforcement officer or a person designated by the court to assist United States Marshals or Federal Protective Service Police. No person, except United States Marshals and others specifically authorized by the court, shall have any such object in his possession while in any courtrooms or chambers. Federal law enforcement officers having prisoners in their custody in the courtroom of any district judge or magistrate judge may retain their sidearms.

#### **RULE 5096-2 - ENFORCEMENT OF BUILDING SECURITY**

##### **5096-2 Enforcement**

Security personnel shall enforce the whole of LBR 5096-1. In addition to such other penalties as may be prescribed by law, violators of this rule may be held in contempt of court and subject to the imposition of sanctions.

## **PART VII - ADVERSARY PROCEEDINGS**

### **RULE 7003-1 - COVER SHEET**

#### **7003-1 Cover Sheet**

A completed and executed adversary proceeding cover sheet form available from the Clerk shall accompany the initial pleading of each adversary proceeding to be filed.

### **RULE 7004-1 - SERVICE OF PROCESS**

#### **7004-1 Summons**

The plaintiff(s) bears the responsibility of preparing and serving the summons in an adversary proceeding. A summons shall be prepared and directed to each defendant. Upon the filing of an adversary proceeding, counsel for the plaintiff(s) shall present an original and two copies of the summons to the Deputy Clerk for issuance. If the summons is in the proper form, the Clerk shall issue the summons and return the original and one copy to counsel for plaintiff(s). The original summons and a copy of the complaint should be served upon the defendant(s). The return copy of the summons should be filed, if necessary, to prove service upon the defendant(s).

### **RULE 7007-1 - MOTION PRACTICE (ADVERSARY PROCEEDINGS)**

#### **7007-1 Motion for Extension of Time to Plead**

Upon certification by a moving party that there has been no previous extension of time to plead and that the opposing party has not filed in the record an objection to an extension of time, then on an *ex parte* motion and order, the court will allow one extension for a period of 20 days from the time the pleading would otherwise be due. Further extensions will not be granted by stipulation, but only by application to the court and for good cause shown.

## **RULE 7016-1 - PRETRIAL PROCEDURES**

### **7016-1 Answers/Pretrial Conferences**

A pretrial conference for all purposes set out in Bankruptcy Rule 7016 will be set when all answers have been filed.

## **RULE 7023-1 - CLASS ACTION**

### **7023-1 Class Action**

In any case sought to be maintained as a class action:

- (a) The complaint shall bear next to its caption the designation, "Complaint-Class Action," and shall
  1. Refer to the portions of FRCvP 23 under which it is claimed that the suit is properly maintainable as a class action;
  2. Make allegations thought to justify the maintenance of the claim as a class action, including, but not necessarily limited to:
    - a. the size (or approximate size) and definition of the alleged class,
    - b. the basis upon which the plaintiff (or plaintiffs) claims
      - (i) to be an adequate representative of the class, or
      - (ii) if the class is comprised of defendants, that those named as parties are adequate representatives of the class;
  3. Contain the alleged questions of law *or* fact claimed to be common to the class; and
  4. In actions claimed to be maintainable as class actions under FRCvP 23(b)(3), contain allegations thought to support the findings required by that subdivision.
- (b) Within 90 days after the filing of a complaint in a class action, unless this period is extended on motion for good cause appearing, the plaintiff shall move for a certification under FRCvP 23(c)(1) as to whether the case is to be maintained as a class action.
- (c) The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or cross claim alleged to be brought for or against a class.

(d) *Communications with Members of the Class:*

1. Whenever a party or counsel desires to prohibit another party or counsel from communicating concerning such action with any potential or actual class member not a formal party to the action, he shall apply in writing to the court for such an order. In such application, the parties must set forth with particularity the abuses they fear will result from such communication, along with the form of remedy they believe would be appropriate to prevent frustration of the policies of FRCvP 23.
2. The court will not enter an order prohibiting communication with members of the class in the absence of a clear record (and, when necessary, an evidentiary hearing) reflecting:
  - a. specific findings regarding the abuse the court seeks to prevent; and
  - b. the need for such an order, weighing the abuse sought to be corrected and the effect it will have on the right of a party to proceed pursuant to FRCvP 23 without interference.
3. Any attorney who communicates with the class shall preserve and retain in his/her files, until the final conclusion of the action, a copy of all communications which he/she has sent to any members of the class or potential class.

**RULE 7024-2 - UNCONSTITUTIONALITY – CLAIM OF**

**7024-2 Constitutional Questions**

Whenever the constitutionality of any act of Congress is, or is intended to be, drawn into question in any suit or proceeding to which the United States or any agency, officer or employee thereof as such officer or employee is not a party, counsel for the party raising or intending to raise the constitutional issue shall notify the court, in writing, of the existence of that question (to enable the court to comply with 28 U.S.C. 2403). A copy of such notice shall be served upon each of the other parties. The notice shall give the title of the cause, a reference to the questioned statute sufficient for its identification and the respects in which the statute is claimed to be unconstitutional.

## **RULE 7026-1 - DISCOVERY – GENERAL**

### **7026-1(A) Discovery Motions**

No motion relative to discovery, including motions for protective orders, shall be accepted for filing unless accompanied by a certificate of counsel for the moving party stating that counsel have conferred in person or by telephone in a good faith effort to resolve amicably the issues without court intervention or stating that opposing counsel has refused to so confer after reasonable notice. Counsel for the moving party shall arrange the conference. If the court finds that opposing counsel has willfully refused to meet and confer, or, having met, willfully refused or failed to confer in good faith, the court may impose such sanctions as it deems proper.

### **7026-1(B) Non-Filing of Disclosure, Discovery Requests and Responses: Retention by Requesting Party**

Disclosure under Bankruptcy Rule 7026 adopting FRCvP 26, interrogatories propounded under Bankruptcy Rule 7033 adopting FRCvP 33 and the answers thereto, requests for production or inspection made under Bankruptcy Rule 7034 adopting FRCvP 34, requests for admissions under Bankruptcy Rule 7036 adopting FRCvP 36 and responses thereto, shall be served upon other counsel or unrepresented parties, but shall not be filed with the court, unless the court orders that such materials be filed. Notices of depositions may be filed with the court, but depositions shall not be filed unless otherwise authorized. The party preparing and responsible for service of the disclosure or discovery material shall retain the original and become the custodian of any such non-filed materials.

### **7026-1(C) Disputed Disclosure and Discovery Materials to Be Filed with Request for Relief**

If relief is sought under Bankruptcy Rules 7026(c) or 7037 adopting FRCvP 26(c) and 37 concerning any disputed disclosure, then the interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories or responses to requests for

admissions or copies of the same shall be filed with the court contemporaneously with any such motion.

**7026-1(D) Pretrial Filing of Disclosure and Discovery Materials to Be Used at Trial**

If disclosure or pretrial discovery materials will be used at trial or are necessary to a pretrial motion which might result in a final order on any issue, the portions to be used shall be filed with the Clerk at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated. Nothing in this rule is intended to preclude use of disclosure or discovery materials for impeachment if the attorney could not reasonably anticipate that it would be used at trial.

**7026-1(E) Filing of Disclosure or Discovery Materials**

Disclosure or discovery materials filed pursuant to the provisions of this rule shall be accompanied by a statement of the reason or reasons requiring their filing. When several items of disclosure or discovery are submitted for filing at the same time, they shall be grouped into a single document entitled "Disclosure or Discovery Materials" with a listing of the items being filed.

**7026-1(F) Construction of the Rule**

This rule shall not be construed so as to preclude the filing of any of the aforesaid disclosure or discovery materials as exhibits or as evidence in connection with a motion or at a trial.

**7026-1(G) Filing of Disclosure or Discovery Materials for Appeal Purposes**

When documentation of disclosure or discovery not previously in the record is needed for appeal purposes, upon an application and order of the court or by stipulation of counsel, the necessary disclosure or discovery papers shall be filed with the Clerk.

**7026-1(H) Disclosure**

Except as otherwise ordered by a judge of the court in a particular case, the parties are not obligated to provide the initial disclosures prescribed by Bankruptcy Rule 7026 adopting FRCvP 26(a)(1).

The scope and timing of disclosures under Bankruptcy Rule 7026 adopting FRCvP 26(a)(2) and FRCvP 26(a)(3) shall be as directed by the court.

**7026-1(I) Meeting of Parties**

Except as otherwise ordered by the court, the parties are not obligated to conduct the meeting required by Bankruptcy Rule 7026 adopting FRCvP 26(f). Formal discovery may begin without regard to the requirements of Bankruptcy Rule 7026 adopting FRCvP 26(d) and (f).

**RULE 7033-1 - INTERROGATORIES TO PARTIES****7033-1(A) Number of Interrogatories**

No party shall serve on any other party more than 25 interrogatories in the aggregate without leave of court. Each sub-part of an interrogatory shall count as an additional interrogatory. Any party desiring to serve additional interrogatories shall file a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for their use.

**7033-1(B) Objections to Interrogatories**

Objections to interrogatories, and objections to the answers to them, shall set forth in full, immediately preceding each answer or objection, the interrogatory or answer to which objection is being made.

## **RULE 7036-1 - REQUESTS FOR ADMISSION**

### **7036-1 Objections to Requests for Admission**

Objections to requests for admission, and objections to the answers to them, shall set forth in full, immediately preceding each answer or objection, the request or answer to which objection is being made.

## **RULE 7041-1 - DISMISSAL OF ADVERSARY PROCEEDINGS**

### **7041-1(A) Dismissal for Failure to Prosecute**

In adversary proceedings, if no responsive pleadings or motion for entry of default have been filed within 60 days after issuance of the summons, an order to show cause will be issued to counsel for the plaintiff(s) to show why the adversary proceeding should not be dismissed for lack of prosecution. The order setting the date and time for the scheduled show cause hearing will be served on counsel for plaintiff(s), allowing at least a 20 day notice.

Unless good cause is shown prior to or at the scheduled hearing, the adversary proceeding may be dismissed.

### **7041-1(B) Dismissal of Objections to Discharge**

A motion for the voluntary dismissal of a complaint containing an objection to a debtor's discharge pursuant to 11 U.S.C. § 727 or a stipulation between the parties for the dismissal of such a complaint shall be served upon the United States trustee and the trustee and, unless otherwise ordered by the court, all creditors and other parties in interest and shall be scheduled for hearing.

The motion or stipulation and notice thereof shall contain a recital concerning the consideration, if any, for the dismissal or the terms and conditions of any agreement concerning the dismissal and notice of the right of all interested parties to object or to continue prosecution.

## **RULE 7054-1 - COSTS – TAXATION/PAYMENT**

### **7054-1(A) Memorandum of Costs**

Within 30 days after receiving notice of entry of judgment, unless otherwise ordered by the court, the party in whose favor judgment is rendered and who claims and is allowed costs shall serve on the attorney for the adverse party and file with the Clerk a notice of application to have the costs taxed, together with a memorandum signed by the attorney of record stating that the items are correct and that the costs have been necessarily incurred.

### **7054-1(B) Hearings**

The party applying for taxation of costs shall notice the matter for hearing before the Clerk.

## **RULE 7056-1 - SUMMARY JUDGMENT**

### **7056-1(A) Motions for Summary Judgment**

Every motion for summary judgment shall be accompanied by a separate, short and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried. The statement shall **not** repeat the pleadings, or contain argument or conclusions.

### **7056-1(B) Oppositions to Summary Judgment**

Each copy of the papers opposing a motion for summary judgment shall include a separate, short and concise statement of the material facts as to which there exists a genuine issue to be tried. All material facts set forth in the statement required to be served by the moving party will be deemed admitted for purposes of the motion, unless controverted as required by this rule.

## **RULE 7062-1 - STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT**

### **7062-1 Supersedeas Bonds**

A supersedeas bond staying execution of a money judgment shall be in the amount of the judgment plus 20% of the amount to cover interest, costs and any award of damages for delay, unless the court directs otherwise.

## **RULE 7067-1 - REGISTRY FUND**

### **7067-1(A) Receipt and Deposit of Registry Funds**

Funds received in the registry of the court will be deposited by the Clerk with this court's designated depository in an interest bearing account at ordinary passbook rates.

If the principal sum deposited is not less than \$10,000, a judge of this court may, upon motion of an interested party, instruct the Clerk to withdraw all or a portion of the funds deposited and to reinvest the same in some form of interest bearing account for a higher return of interest.

### **7067-1(B) Form of Order**

A proposed order to invest registry funds shall specify the amount to be invested and the type of investment and that it shall be made at the prevailing rate of interest; it shall name the institution, if other than the court's designated depository; and it shall state the length of time the funds are to be invested and whether the investment is to be automatically rolled over at maturity. The order shall be consented to by all parties who might ultimately be determined to be entitled to the funds and who might be adversely affected by any provision such as a possible penalty for early withdrawal of the funds.

All proposed orders pertaining to the investment of registry funds must be first presented to the Clerk to assure that the proposed order complies with the United States Treasury

regulations governing deposit of registry funds. No such order shall be presented to a judge of this court without the Clerk's certificate of compliance.

All orders signed by a judge directing that registry funds be invested other than in the court's savings account must be delivered by counsel to the Clerk personally or the Chief Deputy or, in the absence of both, to the deputy-in-charge of a divisional office or financial administrator. Delivery to another deputy is not sufficient. Failure to effect such personal delivery shall relieve the Clerk of any personal liability relative to compliance with the order. It shall further be the responsibility of the moving party to verify that the provisions of the order are accurate and have been carried out.

Unless otherwise specifically provided by order of a judge of this court, the ultimate beneficiary or beneficiaries of any appreciation resulting from investing in interest bearing accounts shall be that person or those persons ultimately found to be entitled to receive the principal thereof.

#### **7067-1(C) Disbursement of Registry Funds**

Funds shall be disbursed from the registry of the court only upon order of a judge of this court. It shall be the responsibility of counsel filing a motion for disbursement to satisfy the court of the recipient's entitlement to the funds sought to be disbursed.

A motion for disbursement of registry funds shall be submitted to the financial deputy clerk for certification of the principal amount of the funds held in the registry in a particular case, before the motion is presented to the judge.

A motion for disbursement of registry funds shall set forth the principal sum initially deposited, the amount of principal funds to be disbursed, to whom the disbursement is to be made, complete mailing instructions and specific instructions regarding distribution of accrued interest.

Each motion shall be accompanied by a proposed order which shall contain substantially the following language: "The Clerk is authorized and directed to draw a check(s) on the funds on deposit in the registry of this court in the principal amount of \$\_\_\_\_\_, plus all interest earned, less the assessment fee for the administration of funds (*or state other instruction regarding interest*), payable to (*name and address of payee*) and to mail or deliver the check(s) to (*payee or attorney*) at (*full address with zip code*)."

If more than one check is to be issued on a single order, the portion of principal due each payee must be stated separately. Counsel must also provide the Social Security number or Tax I.D. number for each payee and complete mailing or delivery instructions for each payee.

On all checks drawn by the Clerk on registry funds, the name of the payee shall be written as that name appears in the court's order providing for disbursement.

The Clerk will issue disbursements as soon after receipt of the order for disbursement as the business of the Clerk's Office allows, except when it is necessary to allow time for a check or draft to clear or when otherwise directed by the court. It shall be the responsibility of the moving party to verify that the funds have been paid within a reasonable time.

## **PART VIII - APPEALS TO DISTRICT COURT**

### **RULE 8001-1 - APPEALS**

#### **8001-1 Motion Seeking Relief from a District Judge**

Motions filed seeking relief from a district judge, including motions under 28 U.S.C. 157(d) (for withdrawal of reference), 28 U.S.C. 157(c)(1) (objections to proposed findings of fact and conclusions of law) and Bankruptcy Rule 8005 (for stay pending appeal) shall be governed by the rules set out below.

##### **(a) *Original Motion***

1. *Applicable Rules.* The Local Rules for the District Court shall be applicable to all motions filed in bankruptcy cases or proceedings seeking relief from a district judge. In those instances where the Bankruptcy Rules require a report from the bankruptcy judge, *e.g.*, Bankruptcy Rules 5011(b) and 9027(e), the local Bankruptcy Rules shall apply until such report is issued.
2. *Place of Filing.* All motions described in this section above shall be filed with the Clerk of the Bankruptcy Court.
3. *Contents of Motion.* In addition to the normal requirements of papers filed in the Bankruptcy Court, motions described in this section above shall include:
  - a. A clear and conspicuous statement opposite the title of the action that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."
  - b. A designation of the portions of the record of the proceedings in the Bankruptcy Court that will reasonably be necessary or pertinent for consideration of the motion by the District Court.
  - c. A list showing each party with an interest in the motion and, for each party shown, their attorney, along with such attorney's mailing address.
4. *Subsequent Filings.* Any filing in a matter under this section subsequent to the "Original Motion" set forth above shall be filed with the Clerk of the District Court and shall comply with all rules of such court.

5. *Duties of the Clerk of the Bankruptcy Court.* Upon filing of an original motion, as set forth above, the Clerk of the Bankruptcy Court shall promptly transmit to the Clerk of the District Court:
  - a. The original motion and all attachments to the motion; and
  - b. The portion of the Bankruptcy Court record designated in accordance with Subsection (3)(b) above.
- (b) *No Automatic Stay.* There shall be no automatic stay of bankruptcy court proceedings as a result of the filing of any motion under the above. Any stay of proceedings will result only from an order of the Bankruptcy Court or the District Court.
- (c) *Obligation of the Parties.* It shall be the obligation of each and every party and their attorney to apprise the Bankruptcy Court and the District Court of orders entered in either forum which significantly affect matters pending in either forum.

#### **RULE 8007-1 - TRANSMISSION OF RECORD – APPEAL**

##### **8007-1 Record Transmitted to the District Court**

The authority to retain any portion of the record on appeal or in connection with a motion seeking relief from a district judge is delegated to the Clerk of the Bankruptcy Court. If any portion of a record is retained in the Bankruptcy Court, a certified copy of such record shall be transmitted to the District Court. If the District Court requests the retained papers, the Clerk of the Bankruptcy Court shall transmit them forthwith.

In the event that papers are retained in the Bankruptcy Court and certified copies are transmitted to the District Court, the Bankruptcy Court may order the party upon whose instance the papers were required to reimburse the Clerk of the Bankruptcy Court for the cost of making the copies.

## **PART IX - GENERAL PROVISIONS**

### **RULE 9010-1 - ATTORNEYS – NOTICE OF APPEARANCE**

#### **9010-1 Trial Attorney**

If a law firm or more than one attorney represents a party, one attorney will be designated in the first pleading filed on behalf of that party as "Trial Attorney" or "T.A." This attorney may, but need not, be the attorney who personally signs pleadings.

The designated trial attorney will be responsible for the case, and all notices and other communications with respect to it will be directed to the designated trial attorney, or to local counsel in the event a visiting attorney is designated as trial attorney. The designation of the trial attorney may be changed at any time by *ex parte* motion. If a party desires to change the trial attorney, the new trial attorney will be promptly designated.

### **RULE 9011-1 - ATTORNEYS – DUTIES**

#### **9011-1 Signing of Pleadings, Motions and Other Papers**

Every pleading, motion or other paper presented for filing shall, in accordance with the Bankruptcy Rules, be signed personally by counsel in his individual name. In addition, counsel's name, mailing **and** street addresses, telephone number and attorney identification number shall be typed or printed under his signature. If the attorney is admitted to the bar by the Supreme Court of Louisiana, the attorney identification number shall be the same as the number assigned by the Supreme Court of Louisiana. Otherwise, the attorney identification number shall be the number assigned by the Clerk of the District Court.

Documents filed by a party not represented by counsel shall be signed by the party. The party's name, mailing **and** street addresses and telephone number shall be typed or clearly printed.

Each attorney and pro se litigant has a continuing obligation to apprise the court of any address change.

## **RULE 9013-1 - MOTION PRACTICE**

### **9013-1(A) Motion Day**

Each judge may designate a specific day of the week as motion day, which shall be the day on which that judge holds hearings on all motions, applications and other forms of routine relief, except: disclosure statements, plan confirmations, Chapter 13 matters and motions requiring oral testimony expected to last more than one hour. Matters not heard on motion day will be specially fixed by separate court order as provided below. Before scheduling a motion or application for hearing on a motion day, counsel should confirm with the office of the Clerk that hearings will be held on that day. All motions and applications shall be set and noticed for hearing on motion day.

Any party desiring oral argument must file contemporaneously with the filing of the motion or opposition memorandum a separate statement setting forth the reasons why oral argument should be heard. Notwithstanding the filing of a statement regarding oral argument, oral argument on motions will be allowed only when a judge of a section of this court, at least two days before the motion is set to be heard or decided, notifies the parties involved that oral argument is desired. Except as set out heretofore, all other motions will be decided by the court on the basis of the record, including timely filed briefs and any supporting or opposing documents filed therewith.

### **9013-1(B) Setting Motions for Hearing**

**(a) *Motions in Writing.*** All motions (except those made during a hearing or trial), applications and requests for an order from the court must be made in writing and shall be filed with the Clerk. Motions will not be accepted by telephone or facsimile.

**(b) *Twenty-Day Notice.*** Counsel filing a motion shall, at the time of filing, set the motion for hearing no earlier than the first motion day which is at least 20 days after the motion is noticed for hearing, except as otherwise specifically provided by the Bankruptcy Rules, ordered by the court or agreed to by all parties entitled to notice. In case of a motion under Section 362(d) of the Bankruptcy Code, if there is no motion day more than 20 days after notice, but less than 30 days after filing, the hearing shall be set on the last motion day that is not more than 30 days after the motion is filed.

**(c) *Notice of Hearing.*** Either prior to or contemporaneously with the filing of a motion, counsel for movant shall serve a copy of the motion and notice of the hearing on opposing counsel/parties, as well as any other parties required by the Bankruptcy Rules.

**(d) *Notices to Creditors.*** If a notice to all creditors is required by the Bankruptcy Rules, it shall set forth: (1) the title of the motion or other form of relief requested; (2) the name of the movant; (3) the name, address and telephone number of counsel for movant; (4) the relief requested by the movant, concisely described; (5) the date, time and place of the hearing; and (6) that any party opposing the motion or other relief requested must file a written objection or response with the Clerk by 5:00 p.m. no later than eight calendar days **prior** to the scheduled hearing and must serve the attorney for the movant by that date. If an opposition or response is not timely filed and served as set forth below, the court may grant the relief requested without hearing.

**(e) *Matters Not Heard on Motion Day.*** Disclosure statements, plan confirmations and motions requiring oral testimony expected to last more than one hour shall be specially set on a day other than the regular motion day. An order to set for hearing leaving the date and time blank shall be filed with all such motions.

**(f) *Motions for Expedited Hearing.*** Motions for expedited hearing are discouraged. In those rare cases when an expedited hearing is necessary, counsel for movant shall file a motion requesting an earlier date and stating that opposing counsel or parties otherwise entitled to notice have consented to the motion. If agreement of opposing counsel or such parties cannot be obtained, counsel may file an *ex parte* motion for expedited hearing with reasons setting forth the need for an expedited hearing and a statement that opposing counsel or parties otherwise entitled to notice have been contacted and refuse to consent to the expedited hearing and the reasons for the refusal, if known, or the reasons why such contact is impractical.

#### **9013-1(C) Calendar**

The Clerk shall prepare and post a calendar listing the matters to be heard on each motion day. Motions shall generally be heard in the following order: (1) motions that are unopposed or by consent; (2) motions to lift stay; and (3) other motions and/or applications.

Motions that require witness testimony will be heard last. If witness testimony will be offered on a motion set on the regular motion day, it is counsel's responsibility to notify the court prior to commencement of argument on the motion.

#### **9013-1(D) *Ex Parte* or Consent Motions**

A motion, allowed by applicable law to be submitted *ex parte* or by consent, need not be noticed for hearing as described above, but shall instead be accompanied by a proposed order. Except as otherwise ordered, every such motion or application shall be submitted to the court through the Clerk and shall state that counsel for all parties with standing to oppose have consented to the motion. If good cause is shown in the motion, no hearing is required on the following motions, unless otherwise directed by the court: (1) for extension of time; (2) to continue a pretrial conference or hearing; (3) to amend pleadings; (4) to file supplemental pleadings; (5) to intervene; and (6) to withdraw as counsel.

### **9013-1(E) Motions to Intervene, Amend Pleadings or File Third-Party Complaints**

Prior to filing any motion for leave to intervene, to amend pleadings or to file a third-party complaint, the moving party shall attempt to obtain consent for the filing and granting of such motion from all parties having an interest to oppose. If such consent is obtained, the motion shall not be noticed for hearing but thereafter shall be filed, accompanied by a proposed order, with a statement of the consent of opposing counsel. No such motions, when required to be noticed for hearing, shall be accepted for filing unless accompanied by a certificate of counsel for the moving party to the effect that opposing counsel have refused to consent to the filing and granting of such motion. If the court finds that opposing counsel does not have a good faith reason for failing to so consent, the court may impose such sanctions as it deems proper.

### **RULE 9013-2 - BRIEFS AND MEMORANDA OF LAW**

#### **9013-2(A) Memoranda Supporting Motions**

The moving party must submit points and authorities in support of a motion which may be either incorporated in the motion or set forth in a separate memorandum served on opposing counsel and filed contemporaneously with the motion.

#### **9013-2(B) Objections and Response/Opposition Memoranda**

Each party opposing a motion shall file, in duplicate, a memorandum of the reasons advanced in opposition to the motion, including the authorities upon which the opponent relies or copies of these authorities no later than eight calendar days prior to the noticed hearing date and shall at the same time serve a copy thereof on the opposing parties.

A copy of the memorandum will be delivered to opposing counsel in the same fashion in which delivery to the court is made.

A reply memorandum by the mover may be filed up to one day prior to hearing. No further memoranda may be filed except with leave of court first obtained.

### **RULE 9013-3 - CERTIFICATE OF SERVICE – MOTIONS**

#### **9013-3 Certificate of Service**

A certificate of service of a motion and the notice of hearing shall be filed with the motion. The certificate must include the names and addresses of the parties served and the date of service of the notice of hearing and of the motion and other papers (in cases where service of the motion and other papers is required). A certificate stating that service has been effected on "all interested parties" or "all parties of record" or any other such general designation is **insufficient**. Counsel who file an *ex parte* motion for expedited hearing shall serve that motion on all parties in interest on the date of filing.

### **RULE 9015-1 - JURY TRIALS**

#### **9015-1 Jury Trials**

Jury trials are not held in this court.

### **RULE 9016-1 - SUBPOENAS**

#### **9016-1(A) Witness Fees and Mileage**

It shall be the duty of the person provoking the issuance of any subpoena for a witness to cause to be tendered to the witness, at the time of service of the subpoena upon the witness, one day's attendance fee and the legal amount for mileage to and from the place of trial or hearing, as set forth in 28 U.S.C. 1821, and further to cause to be paid concurrently to any such witness the daily attendance fee for each day he/she is required to attend said trial or hearing. No witness shall be liable to attachment for not obeying the subpoena if this rule has not been complied with. This rule does not apply to witnesses for the United States.

### **9016-1(B) Notification of Witnesses**

It is the duty of counsel who has provoked the issuance of a subpoena to notify the person subpoenaed if his attendance will not be required in time to prevent the witness from making a needless trip. Counsel failing to comply with this rule may be subject to appropriate sanctions.

## **RULE 9019-1 - SETTLEMENTS AND AGREED ORDERS**

### **9019-1(A) Responsibility for Settlement Discussions**

As officers of the court, counsel have a responsibility to conduct serious settlement discussions in time to avoid unnecessary expense.

### **9019-1(B) Notice of Settlement**

Whenever a case is settled or otherwise disposed of, counsel shall immediately inform the judge to whom the case is allotted and all persons subpoenaed as witnesses. If a case is settled as to fewer than all of the parties or all of the claims, counsel shall also set forth the remaining parties and unsettled claims.

## **RULE 9019-2 - ALTERNATIVE DISPUTE RESOLUTION**

### **9019-2 Alternative Dispute Resolution ("ADR")**

If the presiding bankruptcy judge determines at any time that the case will benefit from alternative dispute resolution, the bankruptcy judge shall:

- (a) have discretion to refer the case to private mediation, if the parties consent, even if such mediation efforts upset previously set trial or other dates;
- (b) have discretion to request the Chief Judge of the District Court to order nonbinding mini-trial or nonbinding summary jury trial before any **judicial officer** of the District with or without the parties' consent; or
- (c) employ other ADR programs which may be designated for use in this District by the District Court.

## **RULE 9025-1 - SECURITY: PROCEEDINGS AGAINST SURETIES**

### **9025-1(A) Qualifications of Sureties**

Every bond furnished in this court must have as surety either (1) a cash deposit equal to the amount of the bond, (2) an obligation of the United States Government, or (3) a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds, pursuant to 31 U.S.C. 9303-9309, except that a bond for costs may instead have as surety an individual resident of the district who satisfies the Clerk that he owns real or personal property within the district sufficient to justify the full amount of the suretyship.

Only by stipulation of the parties or by order of the court may some other form of surety be permitted.

### **9025-1(B) Court Officers Not to Be Sureties**

No clerk, marshal, member of the bar or other officer of this court will be accepted as surety on any bond or undertaking in any action or proceeding in this court.

## **RULE 9070-1 - EXHIBITS**

### **9070-1(A) Custody**

After being received in evidence, all exhibits shall be placed in the custody of the Clerk, unless otherwise ordered by the court.

### **9070-1(B) Disposition**

All exhibits in the custody of the Clerk shall be removed within 30 days of the final disposition of the case and/or adversary proceeding. The party offering exhibits shall be responsible for their removal and shall give a detailed receipt for the Clerk's records. If the parties or their attorneys fail or refuse to remove exhibits within 30 days, the exhibits may be destroyed or otherwise disposed of by the Clerk.

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